

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.18385 of 2018

S.Kamaraj

... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Office of Deputy Superintendent of Police,
Mannargudi,
Thiruvavarur District.

2.The Inspector of Police,
Mannargudi Town Police Station,
Mannargudi,
Thiruvavarur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of mandamus directing the respondents to grant permission to the petitioner to provide welfare assistance to the children and public on 05.08.2018 (Sunday) at Theradi Thidal, Mannargudi by considering the representation of the petitioner dated 11.07.2018.

For Petitioner : Mr.S.Prabhakaran, Senior Counsel
for M/s.R.Nalliyappan

For Respondents: Mr.V.Jayaprakash Narayanan,
Special Government Pleader

O R D E R

This Writ Petition has been filed seeking mandamus, directing the respondents to grant permission to the petitioner to provide welfare assistance to the children and public on 05.08.2018 (Sunday) at Theradi Thidal, Mannargudi by considering the representation of the petitioner dated 11.07.2018.

2.Mr.S.Prabhakaran, learned senior counsel appearing for the petitioner submitted that the petitioner is the Thiruvavarur District Secretary of AIADMK (TTV Dinakaran) Political Party. On behalf of the political party, initially it was proposed to offer food (Annadhaanam) and to provide welfare assistance to

the children and public on 10.06.2018. Hence, a representation was made to the 1st respondent requesting permission to provide welfare activities to the public. The 1st respondent rejected the request vide proceedings dated 02.06.2018 citing certain flimsy reasons that there were some disputes between AIADMK and the petitioner's political party, as a result of which criminal cases have been registered; due to the grudge from the petitioner's political party, Dhivakaran separated and formed a new team, which shows that there are disputes between the petitioner's political party and Dhivakaran; similarly, Jai Anand is also having rival dispute with the petitioner's political party and since the place chosen by the petitioner is near to Mannargudi to Needamangalam Road, Police Station and Fire Station, road traffic would be disturbed by the vehicles of the petitioner's political party.

3.The learned senior counsel for the petitioner submitted that the order dated 02.06.2018 of the 1st respondent was served on the petitioner on 08.06.2018 and hence, the petitioner was unable to file a Writ Petition challenging the same. However, decided to postpone the function to 08.07.2018 for providing welfare assistance. Subsequently, when a representation was given to the 1st respondent requesting to grant permission to provide welfare assistance on 08.07.2018 at Theradi Thidal, Mannargudi, the same was not considered. Therefore, the petitioner had filed a Writ Petition in W.P.No.15601 of 2018 seeking a direction to the respondents to grant permission to the petitioner to provide welfare assistance to the children and public on 15.07.2018 (Sunday) at Theradi Thidal, Mannargudi by considering the representation of the petitioner dated 01.07.2018.

4.A counter affidavit has been filed in the said Writ Petition in W.P.No.15601 of 2018 by the 1st respondent.

5.In the said Writ Petition, the petitioner has also filed an additional affidavit stating that the 1st respondent had instructed the petitioner to hold the welfare assistance programme on some other convenient date, other than on 08.07.2018, as there were other functions organized by the present political party on that date. Considering the request of the 1st respondent, the petitioner, after discussing with the other members, requested the 1st respondent to grant permission to provide welfare assistance on 15.07.2018.

6.Under this background, it was contended that when the 1st respondent himself had requested the petitioner to postpone the previous function scheduled to be held on 08.07.2018 to some other date and having agreed to the said proposal and the petitioner having now finalized the date of function as

05.08.2018, even for the present date of function (i.e.) 05.08.2018, the 1st respondent has not come forward to grant permission. This shows that they are whimsically denying lawful permission. Finally, it is submitted that when the petitioner is going to organize only meeting to provide welfare assistance to the children and public on 05.08.2018, there cannot be any impediment for the respondents to consider the same.

7.The learned Special Government Pleader appearing for the respondents opposing the above said prayer, taking the stand taken in their counter affidavit filed in the earlier Writ Petition in W.P.No.15601 of 2018 submitted that there are number of criminal cases pending against the petitioner and other members under Sections 504, 505(i) IPC, Section 12, 14 of Press and Registration of Books Act, 1867, Section 7 of Tamil Nadu Open Places Prevention of Disfigurement Act, 1959, Section 436, 109 IPC read with Section 4 of TNPPDL Act, 1992 with regard to setting fire to the office of the rival party. The 1st respondent keeping in mind that there is enmity between the petitioner's party and the AIADMK party members, rightly refused permission to hold meeting to provide welfare assistance. However, the 1st respondent has issued a show cause notice dated 18.07.2018 calling upon the petitioner to provide with certain information as to when the petitioner has proposed to start the programme, the duration of the programme, the number of speakers to address in the meeting, whether the function is going to be held in a private place or Government place, as to the number of partymen, directors, organizers, who are going to take part, as to who is going to preside over the function, etc.

8.The learned senior counsel for the petitioner submitted that on receipt of the show cause notice dated 18.07.2018, the petitioner has sent a reply immediately on 19.07.2018 providing all the requisite information, yet they silently denied permission, which is arbitrary and unreasonable.

9.The learned Special Government Pleader submitted that the petitioner's reply is under consideration. Therefore, the petitioner may be directed to approach the 1st respondent, with a direction to the 1st respondent also to consider the case of the petitioner within a specified time.

10.This Court taking note of the fact that when the petitioner proposed to organize a similar programme on 08.07.2018 to provide welfare assistance to children and public and it is the 1st respondent, who had requested the petitioner to postpone the said function to some other date citing that there were other functions to be organized, finds no justification in the contention of the respondents.

11.A perusal of the show cause notice clearly shows that certain information have been sought for from the petitioner and that it never indicated the unwillingness to consider the request of the petitioner.

12.In a Democratic Country, when the petitioner belonging to AIADMK (TTV Dinakaran) Political Party, has approached the respondents by way of various representations seeking permission to conduct only meeting to provide welfare assistance to the children and public, I do not find any justification for the respondents to deny permission to hold public meeting to provide welfare assistance to the poor persons.

13.Finding no justification on the part of the respondents, this Court grants permission to the petitioner to hold a meeting and provide welfare assistance to the children and public on 05.08.2018 (Sunday) at Theradi Thidal, Mannargudi. The 1st respondent is hereby directed to indicate the reasonable conditions to be followed while holding the function. Such exercise shall be done on the same day of receipt of the copy of the order to be produced by the petitioner.

14.In the result, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Superintendent of Police,
Office of Deputy Superintendent of Police,
Mannargudi, Thiruvarur District.

2.The Inspector of Police,
Mannargudi Town Police Station,
Mannargudi, Thiruvarur District.

+1cc to Mr.R.NALLIYAPPAN, Advocate, S.R.No.50124
+1cc to the Government Pleader, S.R.No. 50409

W.P.No.18385 of 2018

TR(26/07/2018)